

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 27815

PERMIT 20227

LICENSE _____

ORDER MODIFYING PERMIT

WHEREAS:

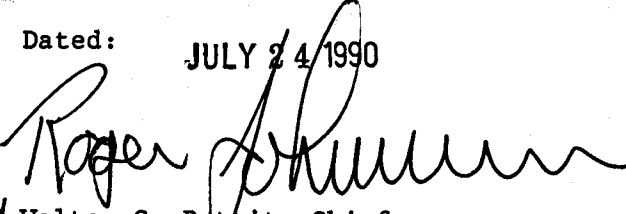
1. Permit 20227 was issued to Energy Growth Group and Butte Creek Improvement Company on May 2, 1988, pursuant to Application 27815.
2. Condition 29 of Permit 20227 states:

"The State Water Resources Control Board reserves jurisdiction over this permit until after the proceeding on Application 28535 of Pacific Gas and Electric Company (PG&E) for the purpose of evaluating the public interest issues to determine whether the public interest requires a reversal of the priorities of rights initiated by Applications 27815 and 28535".
3. By letter, dated September 19, 1988, PG&E withdrew Application 28535.
4. On January 11, 1989, the Board issued an Order rejecting and cancelling Application 28535.
5. By letter, dated April 18, 1990, PG&E stated that it "does not object to deletion of Term 29 from Permit 20227."
6. Based on the above, Condition 29 of Permit 20227 should be deleted.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 29 in Permit 20227 be deleted.

Dated: JULY 24 1990

701 
Walter G. Pettit, Chief
Division of Water Rights

29 Deleted

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20227

Application 27815 of Energy Growth Group and Butte Creek
Improvement Company, c/o John Eastwood Associates Inc.
10 Lombard Street, Suite 410, San Francisco, California 94111

filed on July 28, 1983, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Butte Creek

Tributary to:

Sacramento River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
South 5,000 feet and West 1,800 feet from the NE corner of Section 27	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	27	24N	3E	MD

County of Butte

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Power	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	10	23N	3E	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 250 cubic feet per second to be diverted from January 1 to December 31 of each year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
8. Construction work shall be completed by December 31, 1991. (0000008)
9. Complete application of the water to the authorized use shall be made by December 31, 1992. (0000009)
10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)
13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. For the protection of fish and wildlife, and riparian habitat, permittee shall bypass at all times a minimum of 47 cubic feet per second or the natural stream flow, whichever is less. (0140060)
15. When the water temperature in Butte Creek as measured by a recording thermograph located 100 feet upstream from the powerhouse exceeds 18 degrees Celsius, permittee shall release additional water, up to the entire inflow to the diversion, as is necessary to prevent the water temperature from exceeding 18 degrees Celsius 100 feet upstream from the powerhouse, provided that if the water temperature at the diversion point exceeds 18 degrees Celsius, permittee shall only be required to release sufficient water, up to the entire streamflow, as may be necessary to maintain a two degree or less difference between the water temperature in degrees Celsius at the diversion point and at the point 100 feet upstream from the powerhouse. (0140400)
16. All streamflow releases and temperature requirements shall be monitored by a continuous recording stream gage and recording thermographs at two sites approved by Department of Fish and Game and the State Water Resources Control Board. The recording gage and thermographs shall be properly operated and maintained by permittee. The daily record of maximum and minimum flows, maximum water temperatures, and daily power generation records shall be provided to Department of Fish and Game and the State Water Resources Control Board annually by December 31 of each year for the preceding October 1 through September 30 water year. These records shall also be made available during the year to the Department of Fish and Game and the State Water Resources Control Board upon reasonable request. (0100400)
(0110400)
17. To prevent fish stranding, increases in the rate of diversion shall be gradual and at a rate not to exceed 30 percent of the total streamflow. (0560500)
18. A fish screen acceptable to Department of Fish and Game shall be installed on the intake structure. The fish screen shall be properly maintained and operated by permittee. (0550500)
19. Permittee shall remove sand and sediment from the pool immediately upstream from the diversion structure on Butte Creek to a site acceptable to the California Regional Water Quality Control Board, Central Valley Region and the Department of Fish and Game. All accumulated materials greater than or equal to one-half inch in greatest dimension shall be returned in an approved manner to Butte Creek downstream from the diversion structure. (0400500)
20. To prevent erosion and sedimentation of Butte Creek, construction of roads, diversion structures, and other facilities shall be performed in accordance with an erosion control plan approved by the Central Valley Regional Water Quality Control Board and Department of Fish and Game. (0400500)
21. Transmission lines shall be designed and constructed in such a way that they are not a hazard to raptors. (0600500)
22. All areas during project construction shall be reseeded with native plant species valuable to wildlife. Denuded slopes shall be covered with a protective mulch or other protective reseeded as soon as practicable. Slope protection shall be repeated as often as necessary to control erosion. (0400500)
23. At least 90 days prior to start of construction, permittee shall submit engineering drawings of the diversion structure, the fish screen, and the powerhouse tailrace to Department of Fish and Game and the State Water Resources Control Board for review and approval. These drawings shall be designed by a civil engineer licensed in the State of California. The diversion structure shall be designed to pass the 100-year flood flow and the outlet of the fish flow release shall be constructed in such a manner that silt and debris do not obstruct the outlet and the release is made continuously and automatically. The powerhouse tailrace shall be designed to prevent streambank erosion. (0490300)

24. In accordance with Section 1603 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted until permittee has entered into a stream or lake alteration agreement with the Department of Fish and Game or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)
25. To ensure proper incorporation and operation of fish and wildlife protective measures, permittee shall permit access to the project by representatives of the Department of Fish and Game without prior notification. (0480500)
26. Permittee shall implement any remedial action found necessary by the State Water Resources Control Board to protect, maintain, or restore fish and wildlife resources adversely impacted as a result of failure to comply in whole or in part with any of the terms and conditions of this permit. (0400500)
27. Permittee shall construct the project using an all-tunnel alignment substantially as specified in the Supplement to the Draft Environmental Impact Report dated October 1987 for Application 27815. (0430300)
28. Permittee shall comply with all measures required by U.S. Bureau of Land Management for mitigation of impacts of vegetation, recreation, and visual qualities. (0400300)
29. The State Water Resources Control Board reserves jurisdiction over this permit until after the proceeding on Application 28535 of Pacific Gas and Electric Company for the purpose of evaluating the public interest issues to determine whether the public interest requires a reversal of the priorities of rights initiated by Applications 27815 and 28535. (0000600)
30. All rights and privileges to appropriate water for power purposes under this permit and any subsequently issued license are subject to depletions resulting from future upstream appropriation for domestic and stockwatering uses within the watershed. Such rights and privileges under this permit may also be subject to future upstream appropriations for uses within the watershed other than domestic and stockwatering if and to the extent that the Board determines, pursuant to Water Code Sections 100 and 275, that the continued exercise of the appropriation for power purposes is unreasonable in light of such proposed uses. Any such determination shall be made only after notice to permittee or licensee of an application for any such future upstream appropriation and the opportunity to be heard; provided, that a hearing, if requested, may be consolidated with the hearing on such applications. (000I001)
31. No construction shall be commenced and no water shall be used under this permit until all necessary federal, state and local approvals have been obtained, including compliance with any applicable Federal Energy Regulatory Commission requirements. (000J001)
32. If construction activities reveal the presence of any cultural resources either above or below the ground surface that were not observed during the archaeological survey, work in that immediate area shall cease until a professional archaeologist is consulted to evaluate the significance of the discovery and make recommendations for mitigation of impacts. (0380500)
33. Prior to any construction in the vicinity of PG&E's DeSabra powerhouse permittee shall consult with PG&E regarding geologic hazards that could be affected by construction; and shall undertake engineering and construction precautions to avoid disturbance of geologic hazards that could damage PG&E facilities; and shall provide the Board with evidence satisfactory to the Board that permittee has obtained the necessary right of access to the proposed site for permittees powerhouse. (0270500)
34. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region, or by the State Water Resources Control Board. (0000100)

35. The report of waste discharge to be filed pursuant to Term 34 shall include description of a program to sample and monitor tunnel rock as excavations proceed.

(0290100)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MAY 02 1988

STATE WATER RESOURCES CONTROL BOARD

Walter J. Bell
Chief, Division of Water Rights